



Agenda Date: 02/01/06  
Agenda Item: VC

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**[www.bpu.state.nj.us](http://www.bpu.state.nj.us)**

IN THE MATTER OF THE PETITION OF APPLIED  
WASTEWATER MANAGEMENT, INC. FOR  
APPROVAL OF (1) MUNICIPAL CONSENT BY  
THE TOWNSHIP OF CLINTON AND (2) FOR )  
EXTENSION OF ITS EXISTING WASTEWATER )  
RATE AND TARIFF TO THE NEW SERVICE )  
AREA

WATER  
DECISION AND ORDER

DOCKET NO. WE99070506

(SERVICE LIST ATTACHED)

BY THE BOARD:

On June 23, 1999, the Township of Clinton ("Township"), in Hunterdon County, granted its consent to Applied Wastewater Management, Inc. ("AWWM" or "Company"), in the form of Ordinance No. 687-99, to acquire, operate and maintain sewer facilities in public roads and other places in a portion of the Township commonly known as the Twin Oaks and the Glen Meadows subdivisions. AWWM, the owner and operator of several wastewater and water utilities in New Jersey is a public utility of this State and is subject to the jurisdiction of the Board of Public Utilities ("Board").

The Clinton Township Sewerage Authority ("CTSA" or "Authority") currently provides service, by means of a sewer system including treatment plant, to the affected area that includes 58 existing single-family homes. By Resolution adopted June 2, 1999, the CTSA gave its consent to the granting of the ordinance for municipal consent then pending before the Township.

After appropriate notice, a hearing was held on April 17, 2000, at the Board's Newark offices before Edward D. Beslow, the Board's duly designated Hearing Examiner. At hearing, the Company relied on the testimony of Robert Schwartz, its Vice President and Chief Operating Officer, and Andre Zinkevich, a Principal Engineer with Applied Water Management, Inc., an AWWM affiliate.

Mr. Schwartz testified that the existing treatment plant, which has a capacity of 25,000 gallons per day, has all necessary permits from the New Jersey Department of Environmental Protection. He also stated that AWWM would be responsible for the operation of the plant as well as for the repair and maintenance of mains and sewer lines. The witness explained that there were essentially two reasons for the Company to acquire that portion of the CTSA system

that provides service to the proposed service area: (1) To achieve economies of scale that may result from other AWWM facilities operating or to be operated in the immediate vicinity; and (2) To accommodate a public need by relieving the CTSA of the responsibility of operating a system it does not want. He stated that the subject facilities constitute a stand-alone system and are not interconnected with any other facilities of either the CTSA or AWWM. Mr. Schwartz indicated that the purchase price of the system was the assumption of a debt, in the approximate amount of \$100,000 that was owed to AWWM by the developer of the property that covered construction expenses and costs associated with operations and with the transition from the developer to the CTSA.

Mr. Schwartz further testified that the proposed tariffs for service to the Glen Meadows and Twin Oaks subdivisions would be identical to those tariffs that apply to those sewer customers presently served by the Company. He noted that as a result of utilizing the existing AWWM tariffs, the annual rates of a typical customer in the proposed service area would be reduced from \$1,275.00 to \$904.00, a savings of \$371.00. These were the rates in effect at the time of the first hearing.

Mr. Zinkevich testified that the subject facilities comprise an 8-inch gravity collection system that is connected with a conventional flow-through treatment plant. He stated that the sludge from the plant would ultimately be disposed off-site and indicated that the 25,000 gallons per day plant capacity is the same as the permit capacity. Mr. Zinkevich also testified that the discharge of the treatment plant would travel approximately 150 feet before entering an intermittent tributary of the South Branch of the Raritan River within the Raritan River Basin.

It should be noted, and the record reflects that, while the system is operated by the CTSA, the Authority has never accepted ownership of the facilities. The Twin Oaks collection system was originally a community septic system that, upon its failure, was taken over by the Township. The reconstruction of the Twin Oaks system, with the intent to connect it with the Glen Meadows treatment and collection system, was financed by the Township, in part, with bonds issued by the Township through the New Jersey Environmental Infrastructure Trust to be amortized by payments from the residents of the Twin Oaks subdivision. Because the Township must retain ownership of the Twin Oaks system until the bonds are fully retired, the parties have agreed that the Township will lease the facilities to AWWM, at no cost, for a term of the lesser of 40 years or the date upon which the bonds have, in fact, been fully retired. During the term of the lease, AWWM will operate and be responsible for maintaining the facilities.

The Glen Meadows treatment plant and collection system was originally constructed by a developer, M. Reddington & Associates, who went into bankruptcy shortly after the system became operational. At that time, while the CTSA assumed operational control in order to protect the public welfare, both the Authority and the Township approached AWWM to explore the possibility of the Company eventually taking over the operation and ownership of both systems to be operated as one.

As a result of the unique problems associated with this matter, a final solution could not be structured until 2005. On January 26, 2005, the Township Mayor and Council adopted Ordinance 873-05 which authorized the Township to enter into an acquisition and lease arrangement related to the Glen Meadows and Twin Oaks systems with the Company, the Authority and the homeowner associations of the respective subdivisions.<sup>1</sup> Under cover of letter dated October 19, 2005, AWWM submitted forms of an Acquisition Agreement and a Sanitary Sewerage Facilities Lease Agreement that had been drafted by the parties and would be executed after approval by the Board of the petition.

Because of the extended period of time between the initial hearing in this matter and the structuring of the proposed agreements of the parties, Board Staff was of the opinion that an update of the previously filed responses to discovery requests, as well as the issuance of limited additional supplemental discovery and a second hearing would be appropriate. Following the supplemental discovery process, a second hearing was held before Hearing Examiner Beslow on November 21, 2005.

At the second hearing, AWWM relied on the testimony of Richard S. Algeo, P.E., Director of Engineering of Applied Water Management, Inc. (AWM), an affiliate of AWWM, and Steve Curtis, AWM's Director of Utilities and Wastewater Services. Mr. Algeo testified that after a review of all available files and the transcript of the initial hearing in this matter held on April 17, 2000, it was his opinion that no changes related to the wastewater treatment, collection and disposal facilities have occurred.

Mr. Curtis, who oversees the management of AWM's day-to-day operations, testified that the system will be operated by AWM under contract with AWWM and that the customers will be billed pursuant to AWWM's existing tariff which is currently \$995 per year.<sup>2</sup> He further stated that the plant is fully built out and that no future development is planned for either the subject subdivisions or the adjacent areas.

By letter dated January 18, 2006, the Division of the Ratepayer Advocate submitted a letter stating that it did not oppose Board approval of the petition provided that certain standard conditions are imposed on the Company. Said provisions are contained herein.

After review of the entire record, the Board HEREBY FINDS that the consent granted by the Township to AWWM that is the subject of the petition filed in this matter, is necessary and proper for the public convenience and properly conserves the public interests. The Board FURTHER FINDS that: (1) the Company has the financial capability and the technical expertise to operate and maintain the facilities in a manner that will ensure the provision of safe, adequate and proper sewer utility service; and (2) the form and substance of the Acquisition Agreement and the Sanitary Sewerage Facilities Lease Agreement are fair, reasonable and appropriate.

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<sup>1</sup> A non-substantive error contained in this Ordinance was subsequently corrected by Ordinance 898-05, adopted on November 22, 2005.

<sup>2</sup> By comparison, the customers are currently paying the CTSA rate for service of \$1,486 per year. Accordingly, upon assumption of the billing by AWWM, said customers will see a decrease of \$491 in their yearly rate.

Accordingly, pursuant to N.J.S.A. 48:2-14 and N.J.S.A. 48:13-11, the Board HEREBY APPROVES the consent granted by the Township of Clinton to Applied Wastewater Management, Inc. for the operation and maintenance of facilities to provide sewer service to the area of the Township commonly known as the Glen Meadows and the Twin Oaks subdivisions.


The approvals granted hereinabove shall be subject to the following provisions:


- This Order shall not be construed as directly or indirectly fixing for any purposes whatsoever the value of any tangible or intangible assets now owned or hereafter to be owned by Applied Wastewater Management, Inc.
2. This Order shall not affect nor in any way limit the exercise of the authority of this Board or of this State in any future petition or in any proceedings with respect to rates, franchises, services, financing, accounting, capitalization, depreciation, or in any other matters affecting Applied Wastewater Management, Inc.
  3. In an appropriate subsequent proceeding, Petitioner shall have the burden of demonstrating whether, and to what extent, any of the costs associated with this petition shall be allocated to ratepayers. Approval of this municipal consent does not include authorization to include in rate base the specific assets that will be completed as a result of the new territory.
  4. Approval of this municipal consent ordinance does not constitute Board approval of any costs or expenses associated with this petition. Any determination as to the appropriateness or reasonableness of the costs and expenses related to the franchise, including, but not limited to, cost of construction, contributions in aid of construction, depreciation on contributed plant, the cost of connection, or any related capital improvements, and the allocation of such costs and expenses, shall be made in an appropriate subsequent proceeding.

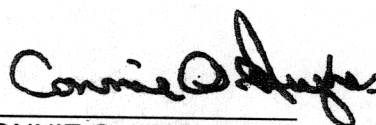
In addition, Petitioner shall submit to the Board fully executed copies of the Acquisition Agreement and the Sanitary Sewerage Facilities Lease Agreement within ten (10) days of the date upon which said documents are signed and dated.

DATED: 2/2/06

BOARD OF PUBLIC UTILITIES  
BY:

  
JEANNE M. FOX  
PRESIDENT

  
FREDERICK F. BUTLER  
COMMISSIONER

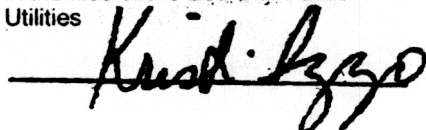
  
CONNIE O. HUGHES  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public  
Utilities



**I/M/O the Petition of Applied Wastewater Management, Inc.  
for Approval of (1) Municipal Consent by the Township of Clinton  
and (2) for Extension of its Existing Wastewater Rate and Tariff to  
the New Service Area  
BPU DOCKET NO. WE99070506**

**SERVICE LIST**

Mark F. Strauss, Esq.  
Applied Wastewater Management, Inc.  
2 Clerico Lane  
Hillsborough, New Jersey 08844  
(on behalf of Applied Wastewater Management, Inc.)

Maria L. Moran  
Gary Zawodniak  
Division of Water  
Board of Public Utilities  
Two Gateway Center  
Newark, New Jersey 07102  
(on behalf of the Staff of the Board of Public Utilities)

Susan E. McClure, Esq.  
Division of the Ratepayer Advocate  
31 Clinton Street  
P.O. Box 46005  
Newark, New Jersey 07101  
(on behalf of the Division of the Ratepayer Advocate)

C. Gregory Watts, Esq.  
Watts, Tice & Skowronek  
171 Main Street  
Flemington, New Jersey 08822  
(on behalf of the Clinton Township Sewerage Authority)

Albert E. Cruz, Esq.  
DiFrancesco, Bateman, Coley, Yospin, Kunzman,  
Davis & Lehrer  
15 Mountain Boulevard  
Warren, New Jersey 07059-5686  
(on behalf of the Township of Clinton)